reference thereto) the November 22, 1996 reply memorandum filed by Ameritech Illinois in that proceeding which addresses these legal arguments.

In addition, for further response to legal arguments, Ameritech Michigan would refer the Commission to the brief filed by Ameritech Michigan in its January 2, 1997 271 application to the FCC in CC Docket No. 97-1, copies of which have been provided to the Commission and all parties herein.

ATTACHMENT B

Checklist Compliance

MCTA objects to the timing of Ameritech Michigan's filing of responses to Attachment B on December 16, 1996, claiming that the Commission's August 28, 1996 Order Establishing Procedures mandated that responses to Attachment B must be filed 45 days before the federal 271 application is filed. MCTA misreads the Commission's order. The Order requested that Ameritech Michigan file its responses to Attachment A concerning general telecommunications market conditions (not Attachment B concerning checklist compliance) at least 45 days before filing with the FCC. (Order Establishing Procedures, p. 4) Ameritech Michigan clearly complied with this request.

1. Interconnection

MCI raises a number of issues relating to Ameritech Michigan's cost studies for interconnection and unbundled network elements. However, MCI raised all of these issues previously before the Commission in the MCI arbitration proceeding. (See, e.g., MCI Panel Decision, pp. 9-19; MCI Arbitration Order, Case No. U-11168) MCI is simply trying to relitigate the issues in this context. AT&T

also attempts to relitigate the cost issues which were addressed in the AT&T arbitration. (See, e.g., AT&T Panel Decision, pp. 6-23; AT&T Arbitration Order, pp. 4-9, Case Nos. U-11151 and U-11152) TCG also tries to use this forum to relitigate cost issues which were addressed in their arbitration. (See, e.g., TCG Panel Decision, pp. 3-6; TCG Arbitration Order, p. 4, Case No. U-11138)

In addition, MCI presented its same contentions submitted in this case regarding Ameritech Michigan's cost studies in the recent docket considering rates for unbundled loops, ports, local traffic termination, and number portability (Case Nos. U-11155 and U-11156). The Commission has addressed these cost issues raised by MCI and others in these cases, and in the various arbitration proceedings, by initiating proceedings to consider, in a comprehensive fashion, Ameritech Michigan's cost studies for unbundled network elements, interconnection services, and retail services in Case No. U-11280. While that case is being considered, the Commission has established interim rates which are well below any of the rates proposed by Ameritech Michigan and supported by the cost studies.

Several parties argue that the rates established by the Commission for interconnection services, as well as unbundled network elements, are interim, and therefore, cannot be relied on to establish checklist compliance. However, Section 252(c) of the federal Act expressly requires that in arbitration proceedings, the state commission must ensure that the resolution of the arbitration and the conditions of the agreement meet the requirements of Section 251, including the FCC's Rules, and must establish rates for interconnection services and network elements in accordance with the pricing standard in Section 252(d).

Therefore, by its resolution of the arbitration proceedings in Michigan, the Commission has necessarily determined and held that the rates, terms, and conditions comply not only with Section 251, but also with the pricing standards in Section 252(d).

2. Access To Network Elements

Several parties question Ameritech Michigan's provision of operational support systems (OSS). See, e.g., AT&T Comments, pp. 2-4. Once again, however, AT&T previously raised these issues in the arbitration proceeding and should not be permitted to relitigate the issue here. The AT&T panel decision addressed operational interface issues at pages 41-42 (generally adopting Ameritech Michigan's position as to technical standards and providing separate interfaces) and at pages 43-45 (generally adopting AT&T's positions concerning interfaces to identify local and long distance providers, migration as is orders, and technical standards for maintenance and repair interfaces). The AT&T arbitration order did not expressly address these interface issues, but rather, adopted the decision of the panel.

Similarly, TCG suggests that Ameritech Michigan must implement and comply with "strict performance standards" before entering the interLATA market. TCG previously already raised performance standards (and penalties for violation) as a substantial issue in its petition for arbitration. (See TCG Petition, pp. 4, 9, Exhibit 6, 8) Ameritech Michigan addressed the performance standards issue at length in its response in the TCG arbitration. (pp. 25-36) Performance standards, however, were not discussed in TCG's proposed decision of the arbitration panel, and therefore, were not addressed in the panel decision or the MPSC order in the TCG arbitration.

AT&T also questions the operational readiness of Ameritech Michigan's operational support systems. These issues were addressed extensively in the affidavit of Warren Mickens submitted with Ameritech Michigan's December 16, 1996 filing. In addition, the attachments to Ameritech Michigan's

January 15, 1997 response to the Brooks Fiber filing in this docket include the affidavit of Joseph A. Rogers submitted in FCC Docket 97-1, which further address operational readiness of OSS systems. Finally, attached is a subsequent affidavit from Joseph A. Rogers which provides the latest information concerning operational readiness of OSS systems and responds specifically to the contentions made by AT&T. This information clearly demonstrates that Ameritech Michigan's operational support systems are functional, operational, have been tested, and have sufficient capacity to handle any reasonably anticipated volume of usage from requesting carriers.

TCG also suggests that Ameritech Michigan's OSS interfaces are not available. However, Ameritech Michigan implemented its electronic interfaces for preordering, ordering, provisioning, maintenance and repair, and billing by December 31, 1996 in accordance with the FCC's order. In fact, TCG has been using Ameritech's ASR (Access Service Request) process to order end office integration.

The establishment of electronic interfaces requires planning and sharing of information on the part of both parties. At a general meeting in December between TCG and Ameritech, the subject of further use of electronic interfaces was discussed. A conference call between the subject matter experts in this area from both companies to discuss this matter further is scheduled for January 16, 1997. Based on this call, a development and testing plan for further implementation will be established. There is also a great deal of information which is available to TCG from Ameritech which will help them in their efforts to integrate the use of Ameritech's interfaces into their processes. This information includes the interface specifications for pre-ordering, ordering, provisioning and maintenance/repair, resale and unbundling product guides, ordering and billing training manual, printed order forms, products and services training material,

maintenance training material, USOC lists, feature availability information, and the advertising listing and directory services CLEC reference manual. It is also necessary for TCG to obtain the applicable national standards documentation upon which Ameritech's OSS interfaces are based.

Based on Ameritech's experience with establishing electronic interfaces and where TCG is currently in the process, based upon TCG's request, a February 1997 date for further implementation is currently anticipated. This does not mean the electronic interfaces were not available on December 31, 1996 to other carriers who started the process earlier and who are using the interfaces today.

3. Poles, Ducts, Conduits, And Rights Of Way

MCTA submitted extensive comments concerning poles, conduits, and rights of way. In order to adequately address MCTA's comments, an understanding of the regulatory background relating to the issues raised by MCTA is necessary. Rather than unduly lengthen these reply comments, Ameritech Michigan has set forth in Appendix A an analysis of the issues raised by MCTA concerning poles, conduits, and rights of way, which is incorporated by reference herein.

TCG briefly alleges that Ameritech Michigan does not comply with the competitive checklist with regard to access to rights of way. TCG presents no substance supporting its position. In response to TCG, Ameritech Michigan refers to the discussion in Appendix A. Ameritech Michigan also notes that TCG has already raised the right of way issue, albeit almost as briefly, at pages 9-10 of its arbitration petition.

4. Local Loops

TCG suggests (in the affidavit attached to its comments, Paragraph 11) that Ameritech Michigan said that TCG Detroit had purchased unbundled loops.

However, Ameritech Michigan never stated that TCG had purchased unbundled loops. See Ameritech's December 16, 1996 Submission of Information, p. 19:

> "To date, Brooks Fiber and MFS are providing service using Ameritech Michigan's unbundled loops."

5. Local Switching

AT&T and Comptel object to Ameritech Michigan's offering of unbundled local switching. However, these arguments were addressed by the Commission in the AT&T arbitration. (See, e.g., AT&T Petition, pp. 30, 32; AT&T's PDAP, pp. 34-35; AT&T Panel Decision, p. 38; AT&T Arbitration Order, pp. 24-25) Ameritech Michigan's offering of unbundled local switching is consistent with the Commission's arbitration decision and in compliance with the requirements of the competitive checklist.

6. Local Transport

MCI and AT&T take issue with Ameritech Michigan's offering of unbundled local transport, particularly related to the provision of common transport. However, this issue was addressed in the AT&T and MCI arbitration proceedings. See, e.g., AT&T Petition, pp. 30, 32-33; AT&T PDAP, p. 39; AT&T Panel Decision, p. 39; MCI Petition, Ex. B, Tab II §1.5; Ex. B, Tab V, §1.2; MCI Status Report, Issue II, p. 16; MCI Panel Decision, pp. 26-27. Most significantly, MCI continues to try to litigate this issue in its arbitration proceeding. See MCI Motion and/or Request for Adoption of Proposed Interconnection Agreement, January 7, 1997, pp. 4-5. The discussion in MCI's motion is virtually identical to that submitted as comments here. Ameritech Michigan's offering of unbundled local transport is consistent with the Commission's arbitration decisions and complies with the requirements of the competitive checklist.

The affidavit attached to TCG's comments suggests Ameritech Michigan misrepresented the facts because TCG is currently purchasing unbundled access facilities ordered from Ameritech Michigan's existing tariffs. That is entirely consistent with the statement in Ameritech Michigan's submission of information, page 25:

> "To date, all purchases of unbundled transport have been made pursuant to Ameritech Michigan's special access tariff, and therefore purchases of such elements for use in providing competing local exchange service cannot be separated from the purchase of the same elements by the same carriers for other purposes, such as the provision of interstate or intrastate access services under the FCC's expanded interconnection rules."

In addition to having the services available from the applicable access tariffs, TCG, like other providers who have entered into interconnection agreements, may purchase these unbundled transport services pursuant to their interconnection agreements or pursuant to the most favored nation clauses in those interconnection agreements under the terms and conditions provided in the AT&T agreement.

TCG, in its affidavit, claims it is unaware of the unbundled offering of certain types of interoffice facilities on an unbundled basis (Paragraph 10). However, the services described in Paragraph 12 of the affidavit attached to TCG's comments (i.e., telegraph, direct analog, base rate, DS-1, DS-3, OC3, OC12, and OC48) were specifically (and correctly) described at page 24 of Ameritech's submission of information as being available on **an unbundled basis** in Ameritech's existing access tariffs. Alternatively, these services are available to TCG under the terms of their interconnection agreement (Section 9.3) or under the most favored nation clause in the TCG agreement (Section 29.13) under the terms and conditions of the AT&T agreement. TCG's own affidavit (Paragraph 10)

admitted that access services are available on an unbundled basis in Ameritech Michigan's existing special access tariffs.

Finally, although the affidavit attached to TCG's filing states that TCG has not requested or purchased unbundled transport (Paragraph 11), Ameritech Michigan correctly stated in its December 16, 1996 submission of information that TCG is currently purchasing unbundled transport from Ameritech Michigan pursuant to existing tariffs. See pp. 24-25.

7. 911, Directory Assistance, And Operator Services

MCI and AT&T take issue with the branding and customized routing aspects of directory assistance and operator services. However, these issues were addressed in the MCI and AT&T arbitrations. See, e.g., MCI Panel Decision, pp. 39-40; MCI Arbitration Order, p. 7; AT&T Petition, pp. 25-26; AT&T PDAP, p. 43; AT&T Panel Decision, p. 38; AT&T Arbitration Order, pp. 24-25. Ameritech Michigan is offering these services in a manner consistent with the Commission's arbitration decision and in compliance with the competitive checklist.

TCG Detroit, in the affidavit attached to its comments, states that it is not purchasing operator services and directory assistance. Ameritech Michigan's submission of information did not assert that TCG was purchasing directory assistance. As stated at page 33 of Ameritech Michigan's Submission of Information:

> "Directory assistance services have been purchased by Brooks Fiber (operator services, toll, and assistance), MFS (regional DA), and MCI Metro (regional DA)."

Although TCG states that it has not purchased operator services, Ameritech Michigan is providing operator services today to TCG. TCG has established DOD (direct outward dial) trunks between their Southfield switch and Ameritech's Southfield switch. This allows TCG end user calls to "0" or "555-1212"

to be routed through TCG's switch to Ameritech's switch. The call then is routed to Ameritech's Operator Services/Directory Assistance switch like any call made by an Ameritech end user to "0" or "555-1212." TCG has not chosen to establish a direct trunk to Ameritech's Operator Services/Directory Assistance switch, although that alternative is certainly available to TCG. Ameritech Michigan also makes other alternatives available for unbundled operator services, as described in its December 16, 1996 submission of information, and these services are available to TCG pursuant to their interconnection agreement.

8. White Pages Listings

MCI contends that Ameritech Michigan is not providing Yellow Pages listings or distribution of white pages and Yellow Pages directories. However, these issues asserted by MCI were addressed and rejected by the Commission in the MCI arbitration. See, e.g., MCI Panel Decision, pp. 58-59; MCI Arbitration Order, p. 6. Ameritech's offering of white pages listings is consistent with the Commission's arbitration decision and complies with the competitive checklist.

10. Signaling And Call-Related Databases

TCG asserts in the affidavit attached to its comments (Paragraph 10) that it has not purchased signaling networks or call-related databases from Ameritech Michigan. As Ameritech stated in its submission of information:

> "Only some of [the companies requesting interconnection] have specifically included signaling and database access in their request, but Ameritech Michigan believes that further discussions and development of implementation plans will eventually include signaling requirements for facilities-based carriers."

All of Ameritech Michigan's signaling and call-related databases are offered and available to TCG, either pursuant to their interconnection agreement or via tariff.

Currently, Ameritech Michigan's signaling networks and call-related databases are being provided to TCG through Illuminet, an SS7 (Signaling System 7) hub provider which offers its services to LECs, CLECs, and wireless companies throughout the U.S. Illuminet has access to Ameritech's signaling network through purchase of local STP ports. TCG also queries the Ameritech 800 database via Illuminet. Illuminet uses the Ameritech 800 carrier ID database for their 250 plus accounts. When a LEC, CLEC, or wireless company joins the Illuminet SS7 network, their 800 database queries come to Ameritech. Together, Ameritech and Illuminet offer 800 carrier ID service in 42 states in the U.S.

With regard to line information database (LIDB), Ameritech Michigan is providing operator services to TCG as previously described via a DOD trunk to Ameritech Michigan's Southfield central office. The Southfield central office then routes the operator service calls to Ameritech's TOPS switch. Since Ameritech Michigan is providing operator services to TCG, it is Ameritech Michigan that actually launches the LIDB query on TCG's behalf as TCG's operator service provider. TCG's end user LIDB records reside in Illuminet's database. In addition, to the extent TCG obtains operator services from another source, that source may launch a query to Ameritech's LIDB database for calling card validation. Thus, TCG is obtaining access to Ameritech Michigan's call-related databases and signaling systems.

11. Number Portability

MCI suggests that Ameritech Michigan's offering of number portability is not in compliance with the competitive checklist because neither the Commission nor the FCC has established a competitively neutral cost recovery mechanism. MCI litigated this issue in arbitration. The arbitration panel adopted Ameritech Michigan's position concerning the provisioning of interim number portability and

MCI's position on cost recovery. MCI Panel Decision, pp. 59-61. The Commission reversed on the latter point, adopting Ameritech Michigan's proposal for cost recovery. MCI Arbitration Order, p. 4.

Ameritech Michigan would also note that in Ameritech Michigan's interconnection agreements, as approved by the Commission, the parties have agreed to bill competing providers for interim number portability charges, but to defer collection of such amounts subject to establishment by the Commission or the FCC of a methodology for the competitively neutral recovery of costs. This arrangement complies with applicable FCC requirements. Since competing providers are, in essence, at this point paying no charges for interim number portability, and costs are simply being recorded until a methodology is established, it is difficult to conceive how MCI can legitimately argue that the rates do not comply with the requirement of a competitively neutral cost recovery mechanism.

14. Resale

MCI objects to Ameritech Michigan's resale offering in two respects: (1) that Ameritech Michigan is not making promotions less than 90 days available for resale; and (2) that Ameritech is not making ICB services available for resale. However, these issues were raised by MCI in the arbitration proceeding. See MCI Petition, Ex. D, Tab 3, p. 1; Ex. B, Tab XIV, §§1.2, 1.5. MCI continues to litigate the promotion issue in its January 7, 1997 motion in the arbitration proceeding, pages 5-6. Ameritech Michigan's resale offering is consistent with the Commission's arbitration decision and complies with the competitive checklist.

MISCELLANEOUS ISSUES

The following issues have been raised by parties in their comments, although Ameritech Michigan believes they are not relevant to the matters at issue

in this proceeding. These issues are unrelated to the inquiries initiated by this Commission in this docket or are beyond the issue of Ameritech Michigan's compliance with the competitive checklist in Section 271(c) of the federal Act.

1. Public Interest

In pursuit of their goal of keeping Ameritech out of the long distance business for as long as possible, several parties urge this Commission to find that Ameritech Michigan's entry fails to meet the public interest test embodied in Section 271(d) of the federal Act. However, this Commission, in presenting its inquiries in Attachments A and B to the August 28, 1996 Order Establishing Procedures, did not undertake to explore the public interest issue. Presumably, this was in recognition of the fact that the FCC's statutory obligation is to consult with this Commission regarding Ameritech Michigan's compliance with the competitive checklist in 271(c), and the Commission sought to fulfill its role therein. On this issue, Ameritech Michigan submits that the guiding principles relevant to the determination of whether Ameritech's entry into the long distance business is in the public interest are already set forth in the Michigan Telecommunications Act:

> "The purpose of this Act is to do all of the following ...
>
> (b) allow and encourage competition to determine the availability, prices, terms and other conditions of providing telecommunications service.
>
> (c) restructure regulation to focus on price and quality of service and not on the provider, rely more on existing state and federal law regarding antitrust, consumer protection, and fair trade to provide safeguards for competition and consumers.
>
> (d) encourage the introduction of new services, the entry of new providers, the development of new technologies and increase investment in the telecommunications infrastructure in this state through incentives to providers to offer the most efficient services and products.

> (e) Improve the opportunities for economic development and the delivery of essential services, including education and health care ..." (Section 101(2) of the MTA)

In addition, the Legislature in the 1995 amendments to the MTA, specifically directed the Commission to immediately take the necessary actions to receive the federal relief necessary to enable providers, including Ameritech Michigan, to offer both intraLATA and interLATA toll services to customers. (Section 312(b)(5)) These provisions incorporate the public interest of the citizens of the state of Michigan.

2. Affiliate Transactions

MCTA argues that Ameritech Michigan has failed to comply with Section 308(3) of the MTA. That section requires that:

> "A provider of basic local exchange service shall notify the Commission when it transfers, in whole or in part, substantial assets, functions or employees associated with basic local exchange service to an affiliated entity, including the identity of the affiliated entity, description of the transaction and the impact on basic local exchange service."

MCTA ignores the plain language of the statute and attempts to twist it into a requirement to report any and all affiliate transactions. Having erected this strawman, MCTA then argues that Ameritech Michigan's noncompliance should disqualify it from 271 relief.

Ameritech Michigan has complied in all respects with the requirements of Section 308(3) and has reported any transaction arguably covered by that section. Indeed, MCTA does not point to any specific transaction which has not been reported except to attempt to rehash positions that were rejected by the Commission in the Ameritech Communications, Inc. (ACI) certification and in the TSLRIC and imputation docket, Case No. U-11103.

MCTA suggests that Ameritech Corporate providing initial funding to ACI should somehow come within the reporting requirement of Section 308(3). Similar arguments were made, but rejected by the Commission, in the ACI certification case, U-11053, Order Approving Application, August 28, 1996.

Similarly, MCTA suggests that the fact that Ameritech technicians and trucks have been used in connection with the installation of Ameritech New Media facilities constitutes a reportable transaction under Section 308(3). Clearly, this situation does not involve the transfer of assets, employees, or functions related to basic local exchange service. The provision of services to an affiliate is not a transfer of assets or functions. When Ameritech Michigan performs services for any affiliate, it complies with the applicable requirements of Part 32 of the FCC Rules requiring that the affiliate be charged either the applicable tariff price, the market rate (if offered to other unaffiliated parties, or at cost if the service is not provided to anyone else). See, e.g., FCC Part 32, §32.27(d)

MCTA's novel interpretation of Section 308(3) on this issue was also rejected by the Commission in its December 12, 1996 order in Case No. U-11103.

3. Proposed 272(e)(1)

MCTA contends that this Commission cannot ascertain compliance with the competitive checklist until the FCC adopts further rules implementing the requirements of Section 272(e)(1) of the federal Act. The FCC has already adopted requirements for compliance with both the accounting and non-accounting structural safeguards in Section 272. Ameritech Michigan and ACI have, in connection with the 271 application submitted to the FCC, demonstrated compliance with those requirements. MCTA's argument that interLATA relief should be conditioned upon compliance with rules which have not yet been established (and which may be determined to be unnecessary) or must be delayed

until such time as those rules may be established is without merit. Section 271 requires that the FCC determine compliance with the requirements of Section 272. There is clearly no requirement to comply with rules which have not yet been created. In any event, this is an issue to be addressed, if at all, at the FCC, not in this proceeding to address compliance with the competitive checklist in Section 271(c).

Similarly, several parties assert that this Commission cannot proceed until the FCC completes its consideration of access charge reform and universal service. Again, that contention is entirely without merit, and in any event, is an issue for the FCC in considering Ameritech Michigan's 271 application.

4. ACI Certification

TCG attempts to object to Ameritech Michigan's checklist compliance based upon allegations that Ameritech Communications, Inc. (ACI) will engage in various "bad acts." However, even if they were relevant to the checklist, these issues were litigated by TCG in the ACI certification proceeding (Case No. U-11153, Order Approving Application entered August 28, 1996). TCG's positions in that proceeding were rejected by the Commission (although TCG attaches its June 17, 1996 brief in that proceeding, it does not attach the Commission order).

Respectfully submitted,

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Appendix A

Analysis Of MCTA Comments Relating To Poles, Conduits, And Right Of Way

The regulatory history concerning pole attachment rates and regulation at the state and federal levels must be considered in order to place the MCTA assertions regarding Ameritech Michigan's attachment rates and alleged denial of nondiscriminatory access in proper perspective.

A. Pole Attachment Rates

MCTA accuses Ameritech Michigan of implementing unjust and unreasonable pole attachment rates in reference to Ameritech Michigan's current filed tariff rate of $1.97 per pole, per year. MCTA urges its own assertion of how a proper rate should be calculated; apparently, it is MCTA's belief that the party subject to the rate must approve of the figure and its derivation before the rate can become effective.

For many years, the prevailing and uniformly applicable pole attachment rate for all utility poles in Michigan was $4.95 per pole, per year, as set by the MPSC in the mid 1980s pursuant to MCL §460.6g. There was a long running difference of position between cable television companies, who wanted the lowest possible rates and favored the FCC's pricing approach, and the pole-owning public utilities, which viewed the existing rates as unreasonably low and providing an unwarranted subsidy to the cable industry. In late 1994 and early 1995, Consumers Power and Detroit Edison filed separate applications with the Commission seeking to increase pole attachment rates significantly from the $4.95 level. These proceedings were consolidated in 1995 with a generic case in which the Commission sought input from all interested parties as to an appropriate attachment rate formula or standard rate (MPSC Case Nos. U-10741/10816/10831, or the "Attachment Proceeding").

In the Attachment Proceeding, Detroit Edison proposed a cost allocation formula that would yield annual pole rental rates of $35.49; Consumers Power proposed a formula resulting in annual rates of $9.60; and the MPSC Staff supported a reproduction cost method yielding an annual rate of $11.13 per pole. MCTA participated in the case and urged adoption of the "FCC method," from the federal telecommunications laws as interpreted by the FCC, with a resulting incremental cost rate of less than $0.50 per pole, per year. The Attachment Proceeding is awaiting final MPSC decision.

Ameritech Michigan actively participated in the Attachment Proceeding and provided cost support for an increase in the attachment rates over the existing $4.95 level – until the Michigan Telecommunications Act (MTA) was amended in late 1995. The MTA amendments added Section 361, governing

attachment rates and service by telecommunications providers, but not electric utilities, which remained subject to attachment regulation under MCL §460.6g.

New MTA Section 361 authorizes providers to set the attachment rates in the first instance and includes language similar to the FCC cost methodology as part of the rate standard:

> "(3) The rates, terms and conditions shall be just and reasonable. A rate shall be just and reasonable if it assures the provider recovery of not less than the additional costs of providing the attachments, nor more than an amount determined by multiplying the percentage of the total usable space, or the percentage of the total duct or conduit capacity, which is occupied by the attachment, by the sum of the operating expenses and actual capacity costs of the provider attributable to the entire pole, duct, or right of way."

During 1996, Ameritech Michigan filed two tariffs developing rates under this formula which produced drastic reductions from the existing $4.95 level. The first tariff filed on May 31, 1996, but later returned by the Staff because it applied retroactively, included an annual pole rental figure of $2.88. Ameritech Michigan filed a second tariff on September 27, 1996, which did not apply retroactively and which included a rate of $1.97 per pole, per year, based on transition to a regional cost methodology. The current tariff is under review by the MPSC Staff. Upon information and belief, due to the heavy workload of the Staff and multitude of higher priority telecommunications issues under active consideration, additional time was necessary for the Staff to review these tariff filings. The discrepancy between the MTA approach and the Commission's discretion under MCL 460.6g, possibly leading to a rate disparity between electric and telecommunications poles, was also a complicating factor.

MCTA's current complaints should be understood in the proper context – cable providers are receiving drastic reductions (approximately 60%) in the attachment rates for Ameritech Michigan poles due to the MTA amendment. The arguments advanced in MCTA's January 9, 1997 comments claim entitlement to an even greater break or subsidy for MCTA members than the rates submitted by Ameritech Michigan consistent with the amendatory language.

MCTA's comments regarding the filing of two tariffs and alleged "stonewalling" are baseless and perhaps only serve to illustrate MCTA's tactic of responding to Ameritech Michigan's willingness to discuss the matters by making unjustified and inflammatory accusations of bad faith and using the discussions and its own self-serving letters as ammunition. MCTA seems to believe that Ameritech Michigan cannot file a tariff rate without MCTA's blessing in advance. MTA Section 361(2) answers this point: "**A provider shall establish** the rates, terms, and conditions for attachments by another provider or cable service." In other words, Ameritech Michigan is authorized to initially set the rate and is not obligated to negotiate a rate acceptable to MCTA. This checklist docket was not

intended as the forum to address disputes regarding application of the MTA methodology. Ameritech Michigan is not under an obligation to conduct informal discussions with MCTA either, although it has elected to do so. As the Commission can see, MCTA's position was "give us everything we want," and for not doing so, Ameritech Michigan is accused of "feigned willingness to resolve disputes" and "stonewalling."

MCTA next complains about collection activities by Ameritech Michigan based on the $2.88 rate in the May 31 tariff. Perhaps MCTA has a point – in the absence of a replacement tariff, the appropriate "just and reasonable" rate could be the existing rate of $4.95 per pole, per year, until a suitable replacement tariff is accepted for filing instead of the $2.88 or $1.97. MCTA appears to take the position that until it is satisfied with a filed tariff rate, its members should receive service for free or for whatever rate they wish to pay. This argument has no merit and certainly fails to support the allegation that access at just and reasonable rates is being denied by Ameritech Michigan.

The essence of MCTA's comments on the attachment rates is that it disagrees with the proposed rates of Ameritech Michigan because of its own interpretation of the statute. Ameritech Michigan Michigan's pole attachment rates are just and reasonable and consistent with the MTA. Ameritech Michigan provides nondiscriminatory access to pole attachments at just and reasonable rates, as required by the competitive checklist. Resolution of MCTA's allegations must await the outcome of a state proceeding in which the issues can be directly addressed. The reality is that MCTA members are receiving a drastic reduction in the attachment rates from previous "just and reasonable" levels which had remained constant for 10 years. There is simply no basis to conclude that the lower Ameritech Michigan rates are unreasonable or that MCTA's concerns should be addressed in this docket and used to hold up Ameritech Michigan's interLATA authorization service proposal.

B. Alleged Discriminatory Access

MCTA distorts the purpose and intent of Section 271(c) in its arguments regarding regulations and franchise fees imposed by local municipalities. The checklist requirements are expressly applicable to "access or interconnection provided or offered by a Bell operating company or other telecommunications carrier." Therefore, what is at issue at the Commission in this docket is nondiscriminatory access to poles, ducts, conduits, and rights of way provided by Ameritech Michigan. MCTA has attempted to manufacture a competitive checklist discrimination issue by pointing to local telecommunications ordinances adopted by a few municipalities allegedly hindering new entrants. Ameritech Michigan does not control local municipal ordinances, nor can the Commission. This is a matter to be addressed at the local level or in state court if MCTA challenges the subject ordinances directly. The comments of MCTA concerning local ordinances do not raise a discrimination issue regarding access and interconnection provided by Ameritech Michigan.

Similarly, the allegations regarding Ameritech New Media do not raise a discrimination issue. MCTA asserts that **past** expenses borne by cable companies as a result of standards in the then-applicable version of the National Electric Safety Code (NESC) electric codes is discriminatory in contrast to Ameritech Michigan's **present** treatment of Ameritech New Media **and all other attaching parties** under the current NESC. MCTA points out that a complaint on this issue was filed in Ohio, but there is no such similar complaint in Michigan. The issue for the purpose of the competitive checklist is whether Ameritech Michigan is presently discriminating against other providers now seeking access to poles, ducts, and conduit and in favor of its affiliate as to such current attachments. MCTA has not even alleged such discrimination.

MCTA points to no specific examples of actual, present discrimination by Ameritech Michigan in its provision of access to poles, ducts, and conduit. The matters alleged by MCTA do not rise to the level of noncompliance with the competitive checklist.

routing of local and intraLATA toll traffic, exchange access traffic, 800/888 traffic, and information service traffic between Ameritech Michigan's network and those of requesting carriers have been developed.

Mr. Dunny describes interconnection as provided by Ameritech Michigan more completely in his attached affidavit (Paragraphs 12-34, 46-50), and the affidavits of Messrs. Mayer (Paragraphs 14-29, 136-151) and Mickens (Paragraphs 13-14, 17) describe how interconnection will be made available operationally.

In its February 23, 1995 Opinion and Order in the City Signal interconnection case, U-10647 (the U-10647 order), the Commission established the basic requirement for interconnection:

> "City Signal, as a licensed LEC, is entitled to physical interconnection arrangements on the same terms and conditions afforded adjacent LECs. Specifically, interconnection for the exchange of local traffic between Ameritech Michigan and City Signal should be available either at the end office, the tandem, or at a mutually agreed upon meet-point."

The November 1995 amendments to the Michigan Telecommunications Act (MTA) added Section 356, which provides:

> "A provider of local exchange service shall allow and provide for virtual colocation with other providers at or near the central office of the provider of local exchange service of transmission equipment that the provider has exclusive physical control over and is necessary for efficient interconnection of the unbundled services. Providers may enter into an agreement that allows for interconnection on other terms and conditions than provided under this subsection."

In its June 5, 1996 Opinion and Order in the generic local competition docket, U-10860 (the U-10860 order), the Commission recognized that Section 356 provides the standard for physical interconnection (p. 17). The Commission also noted (p. 18) that the interconnection arrangements approved in Case No. U-10647 should continue to be made available by Ameritech Michigan.

As required by the Commission's orders, interconnection is available via MPSC No. 20R, Part 21, Section 2. Currently, Brooks Fiber, MFS, MCI Metro, and TCG Detroit subscribe in Michigan.

Commission, in Case No. U-10620, recognized that shared costs are to be included in the TSLRIC analysis of a group of services, such as the unbundled network elements impacted by them.

c. What competitors have interconnected with Ameritech Michigan or any of its affiliates?

RESPONSE

Brooks Fiber Corporation (BFC), MCI Metro, Teleport Communication Group (TCG), and Metropolitan Fiber System (MFS) are the competitors that have interconnected to date with Ameritech Michigan.

d. At what Ameritech Michigan switching equipment (central office, end office, tandem, etc.) have competitors interconnected and by what means for each office?

RESPONSE

The following list identifies the competitors (referenced without name) and interconnected central offices. All competitors have interconnected using the interconnection tariff offering. See also Ameritech Michigan's responses to Attachment A, Questions 5 and 6, and Tables 5.b.1, 5.b.2, 5.c..2, and 6.a.1.

Competitor	Central Office
Carrier #1	Grand Rapids Tandem Wyoming Lenox End Office Grand Rapids East End Office Grand Rapids South End Office Grand Rapids Bell Operator Services
Carrier #2	Detroit Bell Tandem Detroit Bell Operator Services
Carrier #3	Detroit Bell Tandem Detroit Bell Operator Services Pontiac Tandem Wayne Tandem

IN THE MICHIGAN COURT OF APPEALS

ORDER

Re: Ameritech v MPSC
AT&T Communications Michigan Bell Telephone Company
Docket Nos. 198706 & 199383
MPSC No. 10138
Lower Court No. 96-84800 AW

Martin M. Doctoroff, Chief Judge, acting pursuant to MCR 7.211(E)(2) orders:

The motion for immediate consideration is GRANTED.

The motion to consolidate is GRANTED and docket Nos. 198706 & 199383 are CONSOLIDATED for hearing and decision.

STATE OF MICHIGAN COURT OF APPEALS

A true copy entered and certified by Ella Williams, Chief Clerk, on

JANUARY 9, 1997 Ella Williams
Date Chief Clerk

Order

Entered: January 14, 1996

108004 & (26)
108005 & (28)
108070 & (36)

AMERITECH MICHIGAN,

Appellee,

v

MICHIGAN PUBLIC SERVICE COMMISSION, MCI TELECOMMUNICATIONS CORPORATION, and the ATTORNEY GENERAL,

Appellees,

and

AT&T COMMUNICATIONS OF MICHIGAN, INC.,

Appellant.

SC: [redacted]
COA: 198706
LC: MPSC No. U-10138

AMERITECH MICHIGAN,

Appellee,

v

MICHIGAN PUBLIC SERVICE COMMISSION, AT&T COMMUNICATIONS OF MICHIGAN, INC. and the ATTORNEY GENERAL,

Appellees,

and

MCI TELECOMMUNICATIONS CORPORATION,

Appellant.

AMERITECH MICHIGAN,

Appellee,

v

MICHIGAN PUBLIC SERVICE COMMISSION,

Appellant,

and

MCI TELECOMMUNICATIONS CORPORATION, AT&T COMMUNICATIONS OF MICHIGAN, INC. and the ATTORNEY GENERAL,

Appellees.

On order of the Court, the motions for immediate consideration are considered, and they are GRANTED. The applications for leave to appeal also are considered, and they are DENIED, because we are not persuaded that the questions presented should now be reviewed by this Court. The motion to vacate the stay order is DENIED as moot.

Cavanagh, J., would remand the case to the Court of Appeals for explanation of its reasons for granting the stay.

90108

I, CORBIN R. DAVIS, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of Court.

January 14, 1997

Clerk